

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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In Re:

CHARLES BECKER and  
MARY KAY BECKER,

Debtors.

District Court Case No.: 09-C-170

Bankruptcy Case No. 07-26001

PORTAGE COUNTY BANK,

Appellant.

v

CITIZENS BANK,

Appellee.

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**ORDER**

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This is an appeal from an order of the bankruptcy court. *See* 28 U.S.C. § 158(a). Appellant Portage County Bank seeks a review of the bankruptcy court's determination of January 13, 2009, that Portage County Bank's mortgage from Charles Becker and Mary Kay Becker ("the Beckers") did not secure subsequent notes made by Portage County Bank to the Beckers. The appeal was fully briefed in this Court on April 6, 2009. On June 23, 2009, the Wisconsin Bankers Association moved for leave to appear as *amicus curiae* in this matter and file a brief. Appellee Citizens Bank objects to granting the motion and contends that allowing the association to file a brief would unnecessarily delay resolution of this appeal and the bankruptcy proceedings.

Rule 29 of the Federal Rules of Appellate Procedure governs motions for leave to file a brief as an *amicus curiae* in the courts of appeal. Under Rule 29(a), a private *amicus* may file a brief if all parties consent or if the court grants leave. The Seventh Circuit has explained that allowing an *amicus curiae* brief is a matter of “judicial grace.” *Voices for Choices v. Illinois Bell Tel. Co.*, 339 F.3d 542, 544 (7th Cir. 2003) (citations omitted); *see also Atlantic Mut. Ins. Co. v. Northwest Airlines, Inc.*, 24 F.3d 958, 961 (7th Cir. 1994) (“Persons who care about the legal principles that apply to a dispute may appear as *amici curiae*; they are not entitled to intervene.”).

Here, the Wisconsin Bankers Association did not move to appear until over two months after the appeal was fully briefed in this Court. The proceedings before the bankruptcy court are still pending and granting leave to the association to appear could delay those proceedings unnecessarily. As the Wisconsin Bankers Association’s motion for leave to appear in this matter as *amicus curiae* is untimely and the appellee Citizens Bank has objected to the motion, the motion is **DENIED**. However, the Association is invited to renew its request before the appropriate court should further review be sought.

**SO ORDERED** this 28th day of August, 2009.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge